

SECOND REGULAR SESSION

# SENATE BILL NO. 1105

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Read 1st time January 20, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4068S.01I

## AN ACT

To repeal sections 513.430 and 513.440, RSMo, and to enact in lieu thereof three new sections relating to property exempt from attachment in bankruptcy proceedings.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 513.430 and 513.440, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 513.430, 513.432, and 513.440, to read as follows:

513.430. 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed [one] **three** thousand dollars in value in the aggregate;

(2) **A wedding ring not to exceed one thousand five hundred dollars in value and other** jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value [four] **six** hundred dollars in the aggregate;

(4) Any implements, professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed [two] **three** thousand dollars in value in the aggregate;

(5) Any motor vehicle **in the aggregate**, not to exceed [one] **three** thousand dollars in value;

(6) Any mobile home used as the principal residence, not to exceed [one] **five** thousand dollars in value;

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed **[five] seven** hundred **fifty** dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan or profit-sharing plan that is qualified under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceeding. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

**513.432. 1. On or before April 1, 2006, and at each three-year interval ending on April 1 thereafter, each dollar amount in effect under sections 513.430, 513.440, and 513.475 immediately before each date shall be adjusted:**

**(1) To reflect the change in the Consumer Price Index for All Urban Consumers established by the United States Department of Labor for the most recent three-year period ending immediately before January 1 preceding such date; and**

(2) To round to the nearest twenty-five dollars the dollar amount that represents such change.

2. Not later than March 1, 2005, and at each three-year interval ending on March 1 thereafter, the director of revenue shall publish the dollar amounts that will become effective on such April 1 under sections 513.430, 513.440, and 513.475.

3. Adjustments made in accordance with subsection 1 of this section shall not apply with respect to cases commenced under Title 11 of the United States Code before the date of such adjustments.

513.440. Each head of a family may select and hold, exempt from execution, any other property, real, personal or mixed, or debts and wages, not exceeding in value the amount of [eight] **one thousand two** hundred fifty dollars plus [two] **three** hundred fifty dollars for each of such person's unmarried dependent children under the age of eighteen years **or dependent as defined by the Internal Revenue Code determined to be disabled by the Social Security Administration**, except ten percent of any debt, income, salary or wages due such head of a family.

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